

THE  
CELEBRATED POLITICAL  
LETTERS  
OF  
K.  
SOMERS  
TO THE  
RIGHT HON. MR. DOUGLAS,  
SECRETARY TO THE LORD LIEUTENANT,  
ACCOMPANIED WITH THE  
REPLIES  
OF  
PROBUS AND MAYNARD,  
AND THE REJOINDERS BY  
SOMERS.

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The avidity with which these Papers were read, has induced the Publisher to collect them together, and to hand them in this form. — They throw much light upon the internal Administration of Affairs in Ireland, and the Author appears to have a perfect Knowledge of the Men who compose it. No Gentleman, who wishes to be in Possession of the true State of Affairs at Mr. DOUGLAS's Discharge of the Government, should be without one in his Study.

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1794.

S E R M O N



SECRETARY TO THE LORD LIEUTENANT.

SECRET

REPLIES

ROBERT AND MARY NARD

AND THE RELIGIOUS BY

2. REMO.

1. The first part of the document is a letter from the President of the United States to the Congress, dated January 1, 1861. It is a formal communication, and it is written in a very formal and dignified style. The President expresses his regret that he cannot continue to serve the country, and he expresses his confidence in the future of the country.

DAVID

COPIES OF THE REPORTS OF THE COMMISSIONERS OF THE LAND OFFICE



## LETTER I

populorum continet ælius  
 Rursus quid virtus et quid sapientia possit,  
 Utile proposuit nobis exemplar Ulysses.

TO SYLVESTER DOUGLAS, ESQ.

SIR,

THE secrecy which Ministers of State feel it their duty to observe respecting matters of State, whether of trivial concernment or of great public magnitude, leaves the people of this country, like those of the country from which you are lately arrived, to the uncertainty of surmise and conjecture, as to the real cause of your appointment to the office of Secretary in this country, and your motives and object in accepting it.

B

To

To a person not unapprized of your extensive practice and eminent distinction in Westminster Hall, the first enquiry that occurs respecting you is, whether you have *for ever* abandoned your lucrative and honourable profession, or whether you mean to return to it—and return to it I think you one day will, as certainly as you will one day return to your native country; for being both a good Lawyer and a high born Scotsman, I make no doubt that you possess the *esprit-du-corps* of the one, and *amor patriæ* of the other; but that you, not only with the hope but nearly with the certainty of promotion to the highest honour and emoluments which legal or political ambition can attain in Great Britain—that you, the private and public friend of Mr. Fox, at the moment when that great man's political resurrection is approaching with all the splendor of new life and regenerated glory, should become the missionary of Mr. Pitt to this country, at the period when his existence as a public man is verging to the gaping grave of oblivion: that *you*, to your own evident injury in your profession, without any adequate object of gain or ambition, should abandon the certainty of both in the seat of empire for the humble and precarious employment of a provincial Secretary (unless you are the accredited Minister of *some* object of unusual importance) is a species of inconsistent means or unstable quixotism irreconcilable with the deliberate judgment and honourable consistency of Mr. Douglas.

I pay no attention to the idle idea that you are the Messiah of a new Constitution, or of a change of Constitution to this country, and that

that you are to solicit our faith in Mr. Pitt, through the medium of an Union of the two Legislatures. I am certain that if those who sent you here were so unwise as to deem this project feasible, you are too wise to think it practicable, and too prudent to undertake it. For, independent of the rooted and rivetted antipathy of this country to such a measure at all times, which every man in Ireland (even those who might be corrupted to support it) would consider as the final ruin of this country, and the consummation of political sacrilege.—The crisis of human society! eventful indeed to every country on the surface of the inhabitable globe, but above all eventful to the British Empire—the crisis, I say, of human society! peculiarly discourages the hazard of puerile experiment and the risque of constitutional innovation, and if there could exist a British Ministry weak or wicked enough to attempt to destroy the Legislative Independence of this country at one blow (which if it were not self-manifest to every man who reads or thinks, I would prove to be the instant effect of an Union) still it is not possible even for folly or absurdity to conceive that the projectors of such a wild experiment could think of procuring, or could procure, such a man as you to carry their insane project into execution. You feel that, I mean your talents and not the want of them, unfit you for such a task, and that your eminent qualities, in other respects so useful and efficient, would in this instance prove your highest disqualification; to be sure, vanity in the mind of the individual, like ambition in the Councils of Princes, is the imperial

B 2

power



power which for the most part directs and modifies all its resolutions, and the difficulty that attends a desperate enterprise is in general with men of sanguine minds a means of recommending the adoption of it; but there would be injustice even in the suspicion that a Lawyer of your extensive and profound erudition, the sage and sapient author of eight hundred folio sheets of the best reported cases in the English law—the sedulous and elaborate compiler of four volumes of proceedings in cases of contested elections, whose knowledge of the British jurisprudence, the privileges of Parliament, and the frame and balance of the Constitution is commensurate with your labour to attain it. It is not within the unbounded range of possibility to imagine, that a man whose learning and habits must lead him to venerate the glorious structure of the British Constitution, would lend an impious and unhallowed hand to pull down the late erected edifice of Irish liberty; if I reason justly then a Union constitutes no part of your credentials.

The manner in which I have heretofore mentioned your endowment, and which I do with unfeigned respect for them, will convince you that I am sincere when I say, that I do not think it was possible, in the circle of considerable men in England, to have found a person in every sense so well qualified to be the *Mentor* of our young *Telemachus* as you are, not that I deem you are under any tutelary obligation to guard his youthful sensibility from the harlot-witchery of any *imagined Calypso* in this country, but that I think the cares and burdens of State affairs will be most  
securely

securely and prudently reposed on your shoulders while your pupil may enjoy the syren enchantment of sensual indulgence in the soft dalliance and tender embrace of superannuated prostitution. For my own part I believe it not to be unlikely that the friend of *Mr. Fox*, who is himself the invariable friend of his country, was selected at this critical conjuncture as the best instrument for restoring harmony to the jarring councils of a factious Court, and order of tranquility to a distracted people. If such be the motive and end of your appointment, then indeed you come the harbinger of glad tidings to a grateful nation too long the prey of local jealousies and false opinions, of religious and political prejudices, of jarring inferior interests and contending superior factions, of measures to extinguish freedom, and combinations to resist authority; where moderation, temper, and principle were sacrificed to party—where freedom of opinion suffered alike from abuse and fear, while personal liberty was exposed to new and seldom precedented incarceration—where men might be coerced to become their own prosecutors and to accelerate their own punishment by bearing testimony against themselves, where the consecutive progress of bad measures and evil motives, of error and ignorance, of design and desperation, of clumsy management and distraction of opinion, of untimely rigour and mistaken lenity, produced from a slight speck of irritation, a spreading and alarming disease which threatened extensive and general mortality: investigation was its first symptom—investigation produced discontent, discontent murmur, murmur

murmur open complaint, open complaint open resistance, open resistance open (I will not say) *rebellion*; the loyalty of the Irish nation shall not be branded with the foul unfounded charge (though perhaps it is at present not uncourtly language) on account of the periodical phrenzy of a handful of duped and deluded, or (if it must be so) disaffected wretches, whose weak resistance and easy suppression prove that they acted without system, confidence, or courage.

If in truth and good earnest, Sir, you have given up your situation at the English Bar, and your expectations at the English Court, to become the instrument of allaying the ferment which bad policy and wicked men have produced in this country, and have forgone the tranquility of habitual study for the sake of a nation with which you have no connexion, but the common one of being the subject of the same gracious Sovereign, and, with the disinterested and unrewarded humanity of the philanthropic Howard towards his fellow-beings, have come to search after and heal the lurking causes of disease and complaint in the political body; like that great ornament of human nature you will esteem no personal sacrifice too great, and accept no other recompence for your benevolence than the gratitude of a generous and loyal nation, who will say of you at your departure what seldom has been said of any of your predecessors, "*he deserved well of the country.*"

I will not pursue further than I have already done the enquiry into the causes of your appointment to your present station;—it is enough



enough to say, that the choice of *such a man*, at *such a time*, to direct the executive helm of this country, like the two-fold blessings of money, "it honoureth him that gives and him that takes, and dropeth as the gentle rain from Heaven."

You see I am no enemy to your reputation, principles, or person; take another evidence of my sincerity:—The moment you enter into office you will meet some who will assume to advise you, and will lay claim to the impudent privilege of being your State-Preceptor, on the score of *knowing the country*; you will have a great man to tell you *the Irish are a desolated people, they must be kept down to be governed*. He will affect to trace to you the sources of the late public discontents, and with over-weening vanity will tell you what measures he took (for he conceived himself the Minister) to allay them: trust me he will not tell you the true causes.—I question does he know them; they lie too deep in the weighty volume of individual and social character to be read and traced by impracticable petulance or saucy intuition—all will be laid to the charge of the people—the turbulent people—the mob—the French principles—the spirit of resistance to all rule; and of hostility to all subordination; you will hear of no local causes which time, moderation, and melioration in the state of things may remove. No, the sword must reek with blood, and the scaffold stream, and the prisons be crowded. I know you have the spirit which should accompany your understanding; scorn his counsel—he is a miserable politician, not to say worse of him; confine him to the discharge  
of

of his public duty; tell him, *ne futor ultra crepidam*, and, in truth, he is but a sorry workman even at his own trade—but of that hereafter; but if he fail in the attempt to govern you altogether, and through you the country, I apprize you he will be little enough to seek a share of your power.

Mr. Douglas, it would ill besit your good sense to divide the empire of your authority with any man; if you do, you cannot serve the country which I am sure you mean; and the instant you do you become the slave of a little junto of robbers and public peculators—of slanderers and sycophants; but of all men living give no share of power to the person who will be the *first* to look for it. I cannot (perhaps in this country I dare not) designate him in plainer language than the apothegm of the Latin satirist, "*hic niger est; hunc tu Romane caveo.*"

I propose, Sir, in a series of a few letters addressed to you (of which this is the introductory one) at stated intervals, and as time will serve me (for I am not quite an idler) to observe upon the several topics of political and municipal concern which will (or at least ought) to come before you. You are entering upon the government of a country of whose constitution you can have as yet but a theoretical knowledge, and which, as every other man in England does, you have been in the habit of considering as one assimilating itself with the British in every circumstance; in the knowledge of which latter you are profoundly learned. Depend upon it, Sir, you will find them widely and essentially different, you have a new science to study, or you must have

have great perseverance and resolution indeed, if you hope to introduce here the science so little known, or if known, so little practised, that of an enlarged, a liberal and an enlightened policy; believe me before this can be effectuated, and of consequence the country permanently composed, you must somewhat humble the proud, and somewhat exalt the humble; you must ameliorate the wretched lot of some, and restrain the insolent pride and insatiable cupidity of others—you must shorten or reconcile a little the extreme distance between riches and poverty, and soften with the emollient lenitives of comfort and contentment the inequalities of human condition. It will not be enough that you attend to the promulgation of the laws; with a *scrutinizing and pervading eye* you must observe the dispensation of them, for which latter important duty you are eminently and emphatically qualified; but as I mean to distribute those and other topics among a series of subsequent letters, and to lay them before you separately and distinctly, I dismiss them for the present to make a short observation upon a very pressing and momentous subject.

The Parliaments of both kingdoms are assembled—awful and important crisis! May Heaven inspire their councils with wisdom, and their measures with energy! The Parliaments of both kingdoms are assembled in a crisis the most singular and unexampled, the most calamitous and disastrous to the British empire—to the whole world, that the annals of time-recording history can instance; it would be presumption to affect to anticipate their proceedings; but this assertion I will hazard,



heard, that they can adopt no measure so grateful and so indispensable to an exhausted empire as the restoration of peace.

It is now about twelve months since your *excellent friend*, Mr. Fox, deplored with prospective prediction the calamities of the present war; every event that has taken place in the course of it bears testimony to his opinion. I am much disposed to think that the English Minister who scorned the sagacious counsel then offered him, would now be well pleased he had availed himself of it—possibly he may yet adopt it; it is better late than never. If you, Sir, are not one of those *friends* who *disfined* with Mr. Fox about the war, and if you do not still differ, be the first to agree with him in the desire of peace. By thus serving your king and country, you may still preserve his friendship without violating your *new allegiance* to his rival; nay, I deem that Mr. Pitt, who is a wise man, and no doubt sees his error, will feel you do him essential service in procuring the sense of this country against the continuance of the war. You will find a P—m—t in this country ready to co-operate with you, and with whom, if I am not much mistaken, you will be popular. The friends of the British Ministry will obey you as their Minister—the friends of Mr. Fox in the House of Commons, will confide in you as *his friend*, and all sides will esteem and respect you on your own account. You will readily carry the measure; let then the preliminary step of your administration be, to convey to the foot of the Throne the humble, but earnest, desires of the P—m—t and People of this country for the restoration of peace; and if it were

were possible you could be at a loss for a precedent for the interference of the P——m——t of this kingdom, upon a subject affecting the general interests of the empire, and for its taking the start of the P——m——t of England, there is a late one, which is *inftar omnium*, and the occasion of which will ever be regretted, and never be forgotten in either kingdoms.

If this letter should intrude itself upon your leisure, (and the perusal of it will not take five minutes) however meanly you may think of the performance, do not be induced to despise the author, or suspect his motives. Great men in general, and with some justice, look upon newspaper communications as the venal trash of unprincipled scribblers, who traduce for bread, or panegyryze for hire—the scorn of contempt is justly the meed of such productions; if you will admit it to be any proof of sincerity, the author of this letter is neither the hireling scribe of power, nor the importunate mendicant of poverty. If independence be a guard to virtue, and an inducement to patriotism, rely upon it, you have this farther security for the honesty of his motives; and if zeal for the welfare of Ireland, and the honour of the British Empire, can be an excuse for humility of talents, mine shall be occasionally and impartially employed in the investigation and communication of truth, and the detection and exposure of fallacy and error.

S O M E R S.

Jan. 21, 1794.

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 LETTER II.
 

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TO MR. DOUGLAS,

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*Veritas nihil veretur, nisi abscondi!*

**I**T was the plan of my original arrangement to have taken for the subject of my second letter the consequences of the present war, especially as they affect the interests of the country; but the zealous and unanimous determination of the Parliament of Ireland to support the Minister of England in the prosecution of the war, proscribes for the present all discussion of the question, and embraces individual sentiment in the sanction of national opinion.

It is perhaps the peculiar colour of the present men of society, that passion and prejudice in almost every country of the Universe, seem to have usurped the imperial throne of human reason, and between the frantic aberrations of practical innovation and the uncomplying sternness of terrified bigotry, I fear freedom  
of



of opinion and calm investigation have very little chance of a fair and candid hearing.

I shall not presume therefore now to argue the question, whether the war be wisely or unwisely prosecuted; but there is one opinion respecting it which I profess myself decidedly to entertain, that if the people of this country, who speak by the voice of Parliament, should be of opinion at any time during its progress that it ought not to be farther persisted in, there is not a principle in the constitution of Ireland or in the common federal relation of the Sister Countries that negatives the right of our Parliament to question the expediency of peace or war. I am not apprehensive therefore, that the latitude of the position is too extensive when I say, that in respect to the question of commencing or continuing war, there does not exist a feature of constitutional difference between the privileges of the British and Irish Parliaments, save only this, that the British deliberates for Great Britain and the remainder of the Empire, except Ireland; the Irish for Ireland only, but saving the extent of their authority they proceed in all respects *pari passu*—the same frame of constitution—the same connexion with and checks upon the executive power, the same controul over their respective Ministers, the same power over the force and treasure of the countries they respectively represent. Is there any shape in which the British Parliament can take up the question in which the Irish cannot also take it up? Can the British Parliament approach the Sovereign with an address for peace? Cannot the Irish also? Can the British Parliament address the Crown to remove  
from

from the Cabinet a Minister, who shall have advised a ruinous and unsuccessful war—does the Constitution deny the same right to the Irish Parliament? The British Parliament may call for treaties and alliances; *it is admitted* the Irish may do the same. The British may augment or diminish the naval or military force of the country—so may the Irish; but the boasted and indefeazible privilege of granting or withholding the public supplies, which is common to both Parliaments, is at once the evidence of the common right, and the organ by which it is asserted.

There was indeed a time, when the exclusive sovereignty of the Parliament of England in regard to war or peace was wholly unquestioned; and there was a time when the exercise of that right brought these countries to the very verge of precipitate destruction. The right of the Irish Parliament to interfere with the question of war or peace, either did not then exist or was like many other of her rights, unasserted. Happy had it been for the British Empire! happy had it been for the whole civilized world, at this day convulsed by the consequences of the American war, had the Parliament of this kingdom, in an early stage of that unhappy and unnatural contest, withheld the supplies it so liberally voted, and supplicated his Majesty to be graciously pleased to put an end to hostilities; admitting then that this right exists, this instance shews that it is possible for it to be exercised with utility. I think, however, the utmost respect is at all times due to the opinion of the British Parliament upon a war question; nay, I go so far as to say, that there can scarcely a case occur  
in

in which we are not bound in prudence and policy to give that nation our utmost support and most implicit confidence, the magnitude of their concerns compared with our own, their immense credit and incredible resources, their commercial intercourse and political alliances with foreign States, the burdens they impose upon themselves for the general prosperity of the Empire, the eminent wisdom which at all times distinguishes their counsels; these undoubtedly give the English nation a *claim to our assent* on the subject of war, but they by no means give them a *right* to it; neither do they repeal our right to *dissent* from the principles upon which a war is at first commenced, or to remonstrate against the continuance of it after it is commenced; a privilege by the way, which is enjoyed and occasionally exercised by every corporation in England, and which cannot be denied to belong to the Irish Parliament, without, at the same time, denying its imperial dignity and recognized independence.

In these observations upon an important and novel question, I am to hope you will not discover any sentiments of hostility to the close and indissoluble connexion of the two countries in all possible respects; you will perhaps never know me otherwise than through this medium; but do me the justice to believe the declaration sincere; that there is not one man in Ireland more zealous in the desire that this country, *may ever stand out* *fall* with Great Britain, or more sensibly alive to the advantages she derives from this sister connexion than the person who addresses you. There is, however, as I conceive, a point in which



which the Irish nation, like a ship gradually drifting from its moorings, is imperceptibly loosening the band of her constitutional affinity with the Sister Kingdom; I mean to speak of their legal union.

When the appellat jurisdiction was brought home, I am inclined to think it was done upon the idea of its being a branch of the great system of national emancipation, and an object of national pride, and not upon the ground of its being in itself a measure of specific importance. I do not think the experience of ten years has given this country cause for signal exultation in the change; but be that as it may, the total dissolution of the legal connexion has a direct tendency to impair the uniformity of practice, and coincidence of decision, which it is so essentially the interest of both countries should prevail in both, and it seems to me there are two and only two ways of preventing the legal systems of England and Ireland from lapsing in the orbit of a few years, by gradual deviations on the part of this country into frequent inconformity, or perhaps total dissimilitude; the first is, a liberal increase of the Law Peerage; the second, the uniform appointment of an English Lawyer to the first Law-office in the kingdom. I cannot prove my first proposition, better than by referring you to your own experience of the great advantage with which every appeal comes before the Lords in England, in consequence of the number of Law-Peers of the first ability in that august assembly, whereas here the Law-Peers are very few, and certainly do not at present con-

constitute the most distinguished part of the House for learning and ability.

The first instance of appeal from the decree of a Court of Equity in England, was in the reign of James the First, on account of some corruption or gross misconduct of the *Lord Chancellor Bacon*; the possibility of misconduct in the person holding the seals is the most powerful argument, for having able and eminent men placed in the dernier tribunal, for though the other Peers have every inclination to do justice, it is impossible they can be so competent to unravel the mazy labyrinth of legal subtlety, and to detect juridical error and misconduct, as men who have made the laws the study of their lives; but you will be told, as your predecessors in office have been told (for envy is ever calumnious) that the Bench of Judges does not at present contain one man qualified to become a Peer of Parliament—the cowardly malignity of up-start power has for some years succeeded in the aspersion and depression of acknowledged merit. I am much mistaken if it succeed with you. The unassuming modesty of your character, and which is a presage of real merit, will not, I think, incline you to admire, or to submit as others have done to the dictates of insolent effrontery: when left to yourself, you will soon discover that there is at least one man on the Bench whom the public voice has long since placed in the assembly of the Lords; and whose public and private virtues eminently qualify him for that high honour if there be any truth in the Heathen moral, "*virtutis est sola atque unica virtus*"—it is in your power to remove the cloud that intervenes between this

great



great luminary and his country: place him in his proper sphere; call forth the splendour of his brilliant talents, "you may find him on the seat of justice, waiting the vigour of his manly mind, in the constant and conscientious discharge of his public duty, or like Achilles, in the hour of untroubled retirement, brooded in the dignified pride of conscious virtue, brooding over his unavailing patriotism, and his unennobled ambition," but ready to become the champion of his country's welfare if you clothe him in the panoply of honour; he is a man fit for any station, yet notwithstanding his incomparable qualities, I will say there is one station from which in common with all his countrymen he ought to be excluded—I mean from the custody of the great seal.

The celebrated author of the commentaries on the laws of England has pointed out the extensive communication of the laws of the two countries, and the propriety and even the necessity thereof; because, otherwise, he says, the laws might be insensibly changed within the inferior dominion, and judgment might be given to the disadvantage of the superior. The learned Judge's opinion was certainly given when the ultimate resort from the Courts in Ireland was to those in England. I think, however, the restoration of the appellate jurisdiction does not weaken the force of the reasons he has assigned, and I therefore now adopt them, so far as the question affects the interests of England, as reasons for the invariable appointment of an English Chief Justice, and, in truth, it seems to me to have been mainly in the contemplation of the distinguished



guished gentleman who was the instrument of restoring the final appeal that England should have this perpetual guarantee against any abuse of the legal independence of this country, but I think there are other urgent reasons in addition to those mentioned by Judge Blackstone, equally interesting to both countries for preserving their legal uniformity, and since the repeal of Poyning's law, and of the statute of the Sixth of George the First, I know of no other medium by which it can be affected but the one I have mentioned.

I shall instance an extreme case, but yet a possible one:—suppose the people of England should have reason to apprehend that there did not obtain in the two countries “in the like case the like rule,” or that the King's conscience was not the same in both—or that what they were told was equity in England, should not be equity here; the consequences of such an apprehension would be even to England extensively alarming, but to this country deplorably and immeasurably ruinous. The English capitals would soon vanish from our manufactures—their mortgages be withdrawn from our lands; their confidence from our traders; their money from our funds; and deprived of the springs of wealth and national enterprize, our Imperial Constitution would then become the bawbling gewgaw of empty state and splendid wretchedness. I am apprized there have been Irish C——rs here even within the present century, but I think you will not be much influenced by the precedents when you consider how much the constitutional relation of the two countries differs now from what it

was at the times from which the precedents are to be taken. When Ireland was a dependent country—when her laws were subject to the controul of the British and Irish Privy Council—when the British Parliament could bind this nation—when the appeal in the ultimate resort was to England—when Ireland's commercial and political consequence was comparatively trifling; then, indeed, the appointment of an Irishman to the S——s was not matter of much hazard or serious importance: but now that there is a total change in all these respects, I consider the uniform appointment of an Englishman to be the principal remaining stay to the legal uniformity of the two countries, and to be as essential to it as the appointment of a gentleman of the same country to the office you fill with so much dignity and ability, is to their political union.

Hitherto, Sir, I have adverted to this important subject principally as it regards England; as a subject affecting Ireland also in a peculiar manner, I am at a loss to conceive any more prominent to your notice and consideration. It is a question natural for you to make; why I think the S——s should be always held by English hands, and not any other of the judicial appointments? My answer is, that the legal uniformity of the Sister Kingdoms is in no danger from Courts where the common law is the main rule, and where the statutes that are to govern their decisions, are in general an imitation of, or an improvement on, the statute law of England, so far as it can be applied to the local circumstances of this country, and where four men "*omni*

*excep-*



*exceptione majores*," either fit or are supposed to fit, and pronounce the law as they find it, without any thing being left to the caprice of undefined discretion; besides, these appointments should ever be reserved for the gentlemen of the profession, as the encouragement and reward of industrious merit and honourable success; but with regard to the S—s, the case is widely otherwise. You know as well as any one that by the nature of a court of equity, the rule of decision must in a great degree be left to the absolute discretion of the man. The territorial magnitude of Ireland is not very considerable, and there is no man in this country who has lived to the age of 30, within the circle of public life, who is not acquainted with every man of the same standing—his objects—his habits—his friends—his enemies—his property; above all, his political attachments; the little jealousies and prejudices, and malignities of a narrow circle will of course take root in some degree in the most liberal minds. Men attach themselves to one set of people with all the partiality of love, and oppose themselves to another with all the virulence of hatred; the *province* of a man's birth or the *county* of his residence will blend itself in the colour of our regards. In this state of things, if there be not every cardinal quality of virtue and understanding, the man raised to eminent station cannot be proof against his former habits; but when you consider that political impressions are seldom forgotten—when you consider the power and patronage annexed to the office to which I allude—when you consider that a Judge in a Court of Equity is not absolutely bound down  
to



to authority, but may in his discretion differ from decided cases if he fancy it, and *even ridicule such excellent reports as your's*, you cannot hesitate to be of opinion that the office should never be in indigenous hands.

But what if to those disqualifications, so many of which, even the most unexceptionable men are liable, a man should by the whirlwind of political accident, be thrown upon that seat with other imperfections peculiarly his own. Suppose at any time a man should be placed there who should prefer ignorance to knowledge, hebetude to talent, and servility to firmness—who should bring his little partialities into the Court, and make a distinction between the advocates, not founded on their respective merits, but on his own illiberal prejudices. Suppose a man should arrive at that exalted situation, who could be mean enough to set his face against the man who should have worsted him in professional combat, and so vindictive as to retain on the ~~B~~ the bitter bile of ill-complexioned malice. Suppose his horror of eloquence to be in proportion to his own want of it, and his enmity to all genius to carry him so far as that the public should *see and feel*, that to gain his ear did not depend so much upon what should be said, as upon who should say it; and that the *slenderest stripling* in the hall might make as much impression with his puerile exercises as the ablest advocate with his most matured oration; these things you will say can never be; the supposition even is monstrous. I admit it is; but ask the profession *as large are they possible*, and if they are even pos-

possible it is enough for my argument: they are frailties to which an utter stranger to the country is the least likely to be liable.

But there is another and still a more serious point of view in which you will contemplate this subject; it concerns the due administration of justice in an essential degree, that whoever shall henceforth fill that high situation, shall have no great degree of political power; it behoves the public that the Judges of the Land should be unawed, and the Professors of the Law unintimidated; but if a time shall ever arrive when the Head of the Law shall have the whole power of the Government in his hands, both must accommodate themselves to his humours, or become the victims of his vengeance. The union of great political power, with great legal station, gives an unfair advantage over ability without either; and to render the executive authority ancillary to the purposes of dictatorial opinion, will encourage a kind of legal tyranny by which the insolent volition of one man may be superinduced upon the whole system of civil and criminal justice.

In Westminster-hall, you know, the Judges are not only independent of the Crown, but of each other; you never heard, for instance, one Court there reprehend the proceedings in another, or a Court of Equity pronounce an extrajudicial philippic upon the conduct of a Court of Law. I do not think your eloquent and learned friend, Lord Loughborough, would consider himself justified in laying from the Bench, that the Court of King's Bench had consumed too much time in a trial at



at Bar, or that any other Court or Judge had given a ridiculous opinion if it should happen not to square exactly with his own; nor have I heard, since his appointment to the Seals, that he has signified an intention of sitting at the Old Bailey to try criminals as a rebuke to the Judges. He knows the limits of his duty too well to become such a *jack-of-all-trades*—he knows that tho' the Courts of Justice form one great connected system of judicial harmony, yet that they have each distinct and peculiar orbits of authority, and exclusive and independent jurisdictions.

The judicial, of all public functions, is, in my opinion, that of most importance to the public; as it possesses a sort of constitutional impeccability, unless in cases of gross misconduct, so it should be shielded from the audacity of direct insult, and the obliquity of fame-devouring calumny. I think the sanctity of the situation such, that should a Judge even misdemean himself he ought to be removed, if possible, in such a manner as that the public should get rid of the man without being made acquainted with the imputation; and this because I am persuaded that the vulgar eye will seldom discriminate between the character of the laws themselves and the character of the man who is to dispense them; but should a Judge ever become the object of *preconcerted* persecution—should arrogant malignity prejudice his conduct—should he be charged with foul corruption by a triumphant enemy, whose simulated disinterestedness might wink at fouler *every day passing under his eye*—should all the machinery of reptile intrigue,



intrigue, and all the meanness of vulgar traduction be employed to hunt a man from his situation, to fill up the vacuum of office with the greedy voracity of mendicant relatives, I say, be he guilty or be he innocent, the motive of the investigation would, in such a case, be baser than the crime, and the *accuser* more criminal than the *accused*.

## SOMERS.

March 1, 1794.

LET-

## LETTER I

TO THE

*Right Hon. Mr. Secretary Douglas.*

A LETTER, signed SOMERS, and addressed to you, Sir, has appeared twice in the MORNING POST; it purports to be a continuation of a former correspondence; and professes political discussion. Unquestionably the present one teems with matter for serious reflexion, and the public is not meanly indebted to that person who conveys information or instruction on subjects of such importance. Whether SOMERS be a writer of this description is worth our enquiry, in the progress of which, perhaps, we may discover the source of that super-abundant quantity of bile which flows from his pen.

If it be true, as SOMERS asserts, "that passion and prejudice have usurped the throne of reason, and have given their colour to man in almost every country of the universe," it may not be amiss to ask, if SOMERS stands

stands included within this extensive pale of mental proscription, or if he and a few others remain unvisited by the general contagion, in intellectual health—unruffled by passion—unwarped by prejudice. Were the latter the fact, with what attention should we not listen to the dictates of a sound mind and an unclouded understanding; but if it shall appear that the man, who thus proclaims universal distemper, is himself writhing in the extremest agonies of the disease, we must distrust the prescription, which, in his own unhappy case, has not availed him.

That SOMERS labours under the malady he has described, I am led to conclude from the following observations. First, that he seems in haste to leave the more extensive range of political discussion, to tread the narrower circle of *personal* invective; from whence I infer some particular disappointment has dropt *corrosive* on his heart:—and next, that he has surrendered much public principle and political consequence to establish his system of *individual* attack. This obliges me to conclude that he has drawn his dagger not in defence of the public weal, but for the baser purpose of *particular* assassination. The Noble Personage at whom he aims is placed too high for so short an arm. Above the calumny, he is above the notice of it; but, reckless as he is of the impotent effort, it might injure the character of this country in your estimation, Sir, were the calumny to go abroad unrepelled, and the calumniator unchastised. Let this consideration plead my excuse for the liberty I have taken in thus addressing you.

SOMERS



SOMERS commences by stating, that it was his original intention in this his second letter to take into consideration the consequences of the present war, with respect to their operation on the interests of this country, but, says SOMERS, "the zealous and unanimous determination of the Parliament of Ireland, to support the British Minister in its prosecution, *proscribes* for the *present* all discussion of the question, and embraces individual sentiment in the sanction of national opinion." If then I understand the meaning of this position, it amounts to this, that, because the Parliament have *zealously* and unanimously pronounced, the people or the individual, for the present, are to be silent; from whence must inevitably follow this monstrous conclusion, that whenever Parliament shall have unanimously determined on a ruinous measure, the people, by petition, or the individual by his pen, shall not, on the instant, point out and deprecate its mischievous consequences. Supposing the continuance of the war to be productive of ruin to this country, (a supposition which I adopt by way of hypothesis) is not the voice of the people to be heard in Parliament, thro' the medium of petition, until these consequences shall have happened, to avert which was the object of remonstrance: And if the pen of SOMERS were as capable of elucidating political truths, as it appears to be active in the cause of calumny, he were a *traitor* to his country (did the occasion present itself) if, not availing himself of the liberty, which, by the Constitution he possesses, he did not warn Parliament of the danger to which the kingdom might be exposed.

posed. This, perhaps, is a task to which the pen of SOMERS is unsuited, for reason, not invective is competent to achieve it. The adoption of *such a principle* (to use the words of SOMERS) would *proscribe* all discussion until discussion were too late; and farther, to avail myself of his phrase, where his phrase is simple, "I fear freedom of opinion and calm investigation," under such restriction, would fail of all effect.

If SOMERS thus commences, by the assertion of a principle, *monstrous* in its nature and destructive of the Constitution, and assigns it the ground for deserting the topic on which he had professed his intention to write, am I not warranted in concluding that his object is of a *private* nature? or, if that be denied, am I not justified in warning the public against the efforts of a political empiric, who, assuming the signature of the *soundest physician* of the Constitution, vends poison for medicine, and thus would undermine the health of the empire.

After stating a principle subversive of the *soundest rights* of the people, SOMERS enters into a declamatory statement of the *rights* of Parliament, and asserts what none but fools or madmen would deny, the power of the Lords and Commons of Ireland, to deliberate on every subject so far as respects the realm on which the Parliament of Great Britain are competent to deliberate; and having at some length discussed a principle, self-evident as an axiom, and which, in compliment to his penetration, he is pleased to call *axiom*, he proceeds to state his apprehension, that "there is a point in which the connexion between the

ending

"two

"two countries has been interrupted, and which seems to have escaped general observation." By this he professes to mean their legal union.

And here Somers deserts the war question for ever, under the shadow of which he had stalked into public notice, to enter into the grievance that most corrodes his heart, as most destructive to his ill-waved ambition, namely, the appointment of an Irish Chancellor. The consideration of the war, *useful and important* in the opinion of Somers, as its consequences are likely to be, melts into air, before the more dreadful calamity of having an *Irish Lord Keeper*, *who*, like that elemental shock which topples to their base the proudest structures of man, is to rend asunder the bonds that unite these kingdoms.

To deprecate a disaster of such mischievous intent, Somers proposes two remedies. The first, on which he relies, but *lightly*, (for the adoption of it would not serve to heal the canker in his heart) is a "liberal increase of the Law Feeage." The second is, to wrest the Seals from that Noble Personage, in whose custody they are placed, to deposit them *more safely* in *foreign* hands. The proof of his first proposal (on the success of which he leans with no confidence) he refers to you, and in that reference requires you to bear testimony to a *fact*, which does not exist in any material degree, namely, "that from the great number of Law Peers of the first ability in the Upper House of England, appeals are heard to the greatest advantage, whereas here the Law Peers are very few, and certainly do not at present constitute the most distinguished



"guished part of the House for learning or ability." Now, Sir, it critically happens, that the number of Law Peers, in both Houses, are nearly equal, and that the Law Peers of Ireland do constitute the most distinguished part of the House for learning and ability. Thus, Sir, the unassuming modesty of your character, in which, while I most cordially concur, I wish *Somers* would imitate you, is called upon to vouch—first, for an alleged fact which you know to be unfounded—and next, to assent to an assertion, of which, even if true, you could not as yet be a judge. If then, to use the writer's language, "unassuming modesty be a presage of merit," does *Somers* afford us that criterion by which we appreciate his performance?

In the same stile of assertion, unsupported by fact, *Somers* proceeds to inform you (for *Somers* knows the *past*, the present, and the time to come) that you will be told, as your predecessors in office have been told, "that the Bench of Judges does not, at present, contain one man qualified to become a Peer of Parliament."

This, like the rest of the assertions of *Somers*, remain to be proved, unless, indeed, in compliment to this able Statesman, we shall assume *dictum* for fact, accept *dreams* as revelation, and thus, to use his favourite phrase, prostrate all argument. Assuming the prophecy as a truth, he proceeds to point your attention to a *man* "whom the public voice has long since placed in the Assembly of the Lords," and who, let me add, if not ennobled by patent is ennobled by virtue.—

With

With a reverence which Somers may feign, but which I most cordially feel, do I approach the venerable Judge! Eminent services—superior talents—inflexible virtue illuminate his career, and, in common with my country, I drop a tear over those *domestic disappointments* which the vulgar mind of Somers, by exposing to the public, seems anxious to renew. *Untroubled as his moments of retirement* may be, to me they are sacred. With religious awe therefore I drop the veil (which the unholy hand of Somers has lifted up) over the sorrows of the *good man* for ever—lamenting, as well for my country as for him, that, perhaps, to these disappointments is to be imputed the loss which national justice may sustain by confining the *luminary* within the narrower orbit of an inferior jurisdiction. Resigning him therefore to that self-approving rectitude, which alone can sweeten the waters of bitterness, let me turn from a subject too painful for feelings not blunted like those of Somers—satisfied that, when his career shall terminate, he will live embalmed in the memory of his country, who will read his epitaph in his decisions:—an invaluable legacy for a monument of his character. Whenever that day shall arrive (and may the period be distant) his name will survive the slander of Somers, who has dared to assign his country as the reason why he ought not to fill the office of the land. You, Sir, will not concur in the insult which has been thus wantonly offered to the justice of the country—to the feelings of humanity—and to the character of Ireland.

I trust

I trust I have by this time demonstrated to you and to the public, as far as I have gone, the nature and the consequences of the principles of *SOMERS*. I think, also, by this time the public and you are not ill instructed as to the motives that actuate him. In my next I shall consider how the connexion between the two countries may be endangered by committing the *Seals* into Irish hands; in the course of which inquiry I shall of necessity be led to canvas some other principles and motives of *SOMERS*, and, having discharged this task, I shall relieve you and the public by dismissing him and the subject to rest for ever.

## PROBUS.

March 6, 1794.

D

LET



## LETTER II

*Right Hon. Mr. Secretary Douglas.*

**H**AVING in a former letter endeavoured to demonstrate, that the principles adopted by SOMERS led to the most monstrous conclusions, and that motives of a *private* nature could alone impel him to offer such doctrine to the public, I am now to consider, Sir, how the connexion between these countries is likely to be injured by committing the Seals to Irish hands.

It seems to be a privilege assumed by many, in this age of theory, to reject all precedent, or practice, as tending to fetter the human mind, and to impede the boundings of a lively imagination: Hence we are called upon, not to judge of the future from the past; but we are desired to launch into the boundless ocean of conjecture, without chart or compass; and these speculatists venture to promise, that thus unprovided for the voyage, we shall not fail to reach the port: Hence also arises the facility of taking degrees in the science of modern philosophy; for confident assertion, a departure from the beaten track, and an heated

beated imagination, are the requisite qualifications—qualities that are to be found in the human mind, in the exact proportion to its levity or its folly. I shall now venture to demonstrate, that SOWERS is at least a master of arts in this sublime science, and that with him, as with his brother speculatists, the precedent proves its contrary.

Previous to his grand attack, SOWERS affects to lament the restoration of the appellat jurisdiction, for “ he thinks the experience of “ ten years has not given the country cause “ of signal exultation in the change.” SOWERS should have assigned some strong ground to justify this reflexion, before we can assent to this libel on the land. He seems farther inclined to think “ that the appellat jurisdiction was brought home, upon the idea of “ its being a branch of the great system of “ national emancipation, and an object of “ national pride, and not upon the ground “ of its being a measure of specific importance.” To this assertion, which unquestionably bears much of the dashing manner of modern theorists, let me answer, that it was brought home as well to secure the national independence, as to consult the national advantage. It was brought home, in the latter instance, to prevent the trouble, the expence, the tedious attendance, that must inevitably attend an appeal to a foreign tribunal, the existence of which could only be compatible with a state of dependency, and would amount to an admission on the part of the nation, that there was neither honour, truth, justice, or ability in the great council of the realm. Thus, Sir, SOWERS is led to libel the very act, which recognizes and establishes the

independence of this country, rather than not snatch a jurisdiction from hands in which it is entrusted, without assigning any reason (save assertion only) why it should be so wrested. Against this sacrifice of the dignity and independence of Ireland, offered up at the altar of implacable malice, let me most *solemnly* protest. "National honour," says JUNIUS, "is national security,—the feather that adorns the royal bird, supports him in his flight—strip him of his plumage and you fix him to the earth."

But, Sir, as the experience of ten years (no mean portion of the life of man) has endeared our independence to us, and as the rising prosperity of this country is to be dated from that era, it may be difficult to persuade an headstrong nation to resign those blessings which they have for some time tasted. SOMERS is therefore obliged to change his ground, and to come to the great grievance, that, like the scorching whirlwind of the desert, blights all fertility, and desolates the face of the land; and this dreadful change in our political hemisphere is to be produced by the nomination of an Irish Chancellor, who, with a *volcanic force*, shall explode the two kingdoms, and separate them for ever.

And first SOMERS takes into consideration the appointment to this great office, with regard to its operation on the interests of England; and here, Sir, he draws a dreadful picture indeed! "Suppose," says he, "the people of England should have reason to apprehend that there did not obtain, in the two countries, in the like case, the like rule, or that they were told, that what was equity in England was not equity here, or  
" that



“ that the King’s conscience was not the same  
 “ in both; the English capitals would soon  
 “ vanish from our manufactures, their mort-  
 “ gages be withdrawn from our lands, their  
 “ confidence from our traders, their money  
 “ from our funds—and deprived of the  
 “ sources of wealth and national enterprize,  
 “ our imperial constitution would then be-  
 “ come the bawbling gew-gaw of empty  
 “ State and splendid wretchedness.” This,  
 in truth, is a flaming period, and wrought of  
 all that combustible material that constitutes  
*French denunciation*. But, Sir, I thank God it is  
 but a period. Unpracticed in all the ele-  
 gancies of style, my phrase takes its shape  
 from the plainness of my mind, and before I  
 determine on the probability of those conse-  
 quences, I ask myself, has ever a similar case  
 occurred, and what has been the event? To  
 my astonishment, I find the fact before my  
 eyes, and I discover, that for some time past  
 an Irish Chancellor has existed in this country;  
 that since his appointment a considerable ar-  
 rear of justice has been discharged, and that  
 in consequence a foreign confidence in its dis-  
 pensation exists, for “ English capital is dealt  
 “ liberally to our manufacturers—English  
 “ property secured on our lands—English con-  
 “ fidence in our traders, and English money  
 “ in our funds.” But, perhaps, I will be told  
 that the case, supposed though it may, has  
 not yet happened; from whence I may at  
 least infer, that it is not very probable it will;  
 but I admit for a moment, that there may  
 arise a difference of opinion on some point of  
 equitable construction between the Chancel-  
 lors of both countries. Does it necessarily  
 follow that Ireland is in error? or, if in error,

is there an obstinate toughness in the jurisprudence of this kingdom that will not bend to revision? Few cases can ever happen in which such a difference may exist, and the consideration of what their number must be, destroys all apprehension. I admit that equity, from its nature, cannot be confined within the literal limits of the common law; but how very few cases exist even in equity, to guide the determination of which no precedent can be discovered; and when we search for analogy in order to govern decision, do we not apply for information to the decrees of English Judges? And do we not find them recorded in English Reporters? Is this no security for the "like rule in the like case"? Is there no review of error in the House of Lords? Are the twelve Judges to be silent? Are the Law Peers to hide their heads? Are the Erudite Sages (upon their oaths as they are) to give false answers to the doubts and questions that may be proposed? Are the Lay-Lords not to rise in indignation? But are all to lick the dust, and crouch beneath the feet of a Lord Chancellor, because he is a *nairoe*? Indeed, Sir, if you were to collect our character from the representation of *SOMERS*, there would not exist upon the face of the earth so despicable a race of reptiles.

And now, Sir, having endeavoured to dispel all apprehensions as to variance of decision between the two countries, I come to the last and the most laboured part of this production of *SOMERS*; and here I trace his motives to their real source. The sacrifice of principle, the sacrifice of independence, the surrender of national character, are nothing in the estimation of *SOMERS*, when contrasted with his



his favourite object of *personal* attack. The  
 realm, or whole, "imperial dignity," he talks  
 in his most pompous phrase, in a moment  
 looks all territorial consequence, contracts  
 itself within the smallest possible dimension,  
 and dwindles to such a size that the human  
 eye can pervade all its parts, and the human  
 hand extend to all its inhabitants; and this  
 magical operation is performed, in the hope  
 to persuade you that an Irish Chancellor  
 having so distinct a view of persons and  
 things, must of consequence be influenced by  
 "objects, habits, friends, enemies, property,  
 "and above all, political attachment;" and  
 that thus situated he will make the strict  
 rules of equity and good conscience, give way  
 to private and personal motives. To dispel  
 these apprehensions I must again recur to that  
 plain operation, which is so suited to a simple  
 and unlettered mind like mine, and I must  
 again ask, if a similar case has occurred, and  
 if there has, what consequences have ensued?  
 And, Sir, to my astonishment I find, that for  
 nearly five years an Irishman has held the  
 Seals, and that none of these predicted ca-  
 lamities have visited this country.

Sir, I am a man, who mix much in the  
 bustle of the world, and I have heard, for  
 nearly these five years past, that equity has  
 neither been *sold*, *denied*, or *delayed* to the  
 people. However I have heard men differ  
 on political subjects, in this instance they were  
 all united, and all have agreed (with the  
 exception of a few men who pine in obscurity)  
 that the justice of the country, at any former  
 period, was never so rapidly, so equally, and  
 so satisfactorily dispensed. Now, Sir, if this  
 be the fact, and for its truth my appeal is to  
 public notoriety, is it consonant to reason  
 and



and common sense to suppose that all this could be achieved by a Judge, who should prefer "ignorance to knowledge," "talent, and servility to firmness." I am not versed in forensic habits, but I have learned from those who are, that the knowledge and ability of the advocates on either side are absolutely necessary to assist the Judge in the investigation of truth.—He sits upon an eminence, whence he beholds their exertions in clearing the ground, and avails himself of their labours. I think, therefore, I am warranted in concluding, that, in the present day, the preference of advocates, alluded to by Somers, does not exist, because, if it did, justice could not be done; neither do I think, in the present day, there is danger of flight to "such excellent reports as yours," because I have heard from professional men, that they contain the soundest doctrine and principles of law.

Allusions of this kind are often made to engage the passions, where the understanding cannot be convinced, and, I believe, if I were an advocate before the learned Lord who presides in Chancery, I would not add much to the strength of my client's case, by acquainting his Lordship, that the adversary in this case had spoken slightly of his decisions. With you, Sir, the observation will have equal weight. Were Somers on the Bench, perhaps, such an assertion might have its effect, for a little mind is the seat of little passions; but, as things are, I would not recommend the experiment to the advocate, as, perhaps the consequences might be injurious.

But, Sir, according to Somers, if we are to be cursed with an Irish Chancellor, and that  
 this  
 to the last, and for its truth my appeal is  
 not a notice of insubordination, it is a confession of  
 and

this writer's pen, like the laurel of Apollo, cannot shun the lightning that must blight the hand, who Chancellor is not to possess political power, for if it does, he will overawe the Judges and intimidate the Professors of the Law. I know not how it happens, but my mind is so simply framed that it involuntarily attaches some portion of political power to the King's Conscience; unless, indeed, he is to be considered in the light of a Romish Confessor, who receives from his penitent an account of what he has committed, but is not to be consulted on any act to be done. I cannot reconcile the right of advice, (and in the case where the King's Conscience may have been misled or surprized) of remonstrance, with the total privation of political power, and applying myself always to precedent, on which, from time to time, such a weak understanding as mine is forced to repose, I discover that for more than thirty years Lord Hardwicke possessed political power—that Lord Mansfield, tho' but Chief Justice, possessed political power—that Lord Thurlow was a Cabinet Minister and consequently possessed political power—that Lord Loughborough possesses political power—that Chancellors, in this country, as Lords Justices, have wielded the executive power, and yet I do not find, in either kingdoms, that the Judges of the Land have been over-awed, or the Professors of the Law intimidated.—I am no Lawyer, Sir, nor do I know if SOMERS is, but if I were, I should not be pleased to have the timidity of any man's mind imputed to mine or to my profession, or that apprehension should deter me from discharge of duty.

SCMERS,

SOMERS, by stating that Lord Lougborough, in his capacity of Chancellor would not say that a Court of King's Bench had taken up too much time in a trial at Bar, or that "he would sit on the Old Bailey to try criminals, as a substitute to the Judges," seems to imply that this has been said—SOMERS, in that Court of Chancery, and but then, when impelled by curiosity, I know not if such language was spoken from the Bench. But if there was an unnecessary quantity of time consumed in a trial at Bar, to the detriment of the public and of the individual, or, if in the Commission of Oyer and Terminer, and of General Goal Delivery, the great object of that Commission was not speeded as it ought, I should think it the duty of the Lord-Keeper, in his various capacity of Chancellor, Keeper of the King's Conscience, and Peer of Parliament, to exercise over the Judges a superintending—not intruding into the interior of their jurisdictions, but propelling them forward whenever their motion became languid, irregular, and slow.

At length SOMERS concludes with stating a principle, if possible, more monstrous than even those I have attempted to resist, and which, if admitted, would at once destroy the force of public opinion and of public example. He asserts, "such should be the impeccability of the judicial function,



" function, that even if a Judge were to  
 " misdemean himself, he ought to be re-  
 " moved in such a manner, if possible,  
 " that the public should get rid of the man  
 " without being made acquainted with the  
 " imputation; and the reason he assigns  
 is, perhaps, the very argument that goes  
 to establish the reverse of the position—  
 namely, that " the vulgar eye will seldom  
 " discriminate between the character of  
 " the laws and the character of the man  
 " who is to dispense them. Now, Sir, I  
 contend for it, nothing is so likely to impress  
 on the public mind the purity of legal dis-  
 pensation, as the awful and exemplary  
 punishment of that Judge who has dared  
 to violate that law he was appointed to dis-  
 pense, and who, the Vicegerent of Heaven  
 upon Earth, and intrusted with the dis-  
 pensation of its most sacred attribute, has  
 blasphemously falsified the mission he should  
 discharge, and, impiously arrogant, has  
 hurled defiance at his Creator. In some  
 countries where the administration of justice  
 is hereditary, and where the trust has been  
 violated, the offender lays down his life as  
 the forfeit of his offence: The judgment  
 seat is vested in that mortal robe, which,  
 while the wretch did exist, enveloped and  
 protected the mechanism of his frame—and  
 the son, who succeeds him, as he mounts the  
 tribunal, beholds the dreadful example of a  
 parent's injustice, and recoils from *his* crime.

A bar-

A barbarous or a despotic nation is terrible in its punishments; but while milder minds in civilized society turn abhorrent from what looks too like vengeance to be example, the principle stands firm in gigantic strength, and towers above the puny doctrine of *SOMERSETT*, leaving him to what, upon all *great* occasions, is the vice of little minds, a middle measure, palliative and ineffectual. OF what avail would be the example of a Bacon, of a Jeffries, or of a Macclesfield, if quietly, and in the obscurity of the night, they were to be removed from their places—no cause assigned—no corruption proved—the torch of public inquiry not held up to their actions, and the people left to conjecture whether they fell by misdemeanors or political intrigue.

As to the unhappy man to whom *SOMERSETT*, with his usual delicacy, has alluded, and who unfortunately possessed a lucrative office, fraught with too strong temptation—little, if aught, remains to be said. Let me not disturb the *wise* judgment he has pronounced on himself. Let me respect those feelings, which, tho' not strong enough to resist temptation, could not brook disgrace, and in that vast abyss, where he sought shelter from contumely, be his faults and his frailties buried for ever!

Having thus attempted to shew that no apprehensions can be entertained from the appoint-

ment of an Irish Lord Keeper, let me consider if any advantage to this kingdom might be derived from it.

Independent of that attachment which an Irish Lord Chancellor may be supposed to feel for his native country, his situation and property in it are securities for his conduct. An English Law Lord, if sent here, might conceive himself in a kind of splendid exile, and which was to terminate only, when, from the emoluments of office, he was enabled to lay by that sum which in his own country would insure him consideration and affluence. With this view, altho' above actual corruption, he would not fail to look *minutely* into the profits of his place. Perhaps finding appointments of consequence within his gift, he might farm them to his officers, who in turn would reprice themselves on the suitors of the Court—insinuating an influence they perhaps did not possess—accepting under the title *fee* what in truth were a *bribe*, and if not able to sell favour, at least selling smoke to the public. Perhaps in the course of this disgraceful arrangement, and occupied with the care of keeping up his English connexions, the business of the country might fall into delay, and a large arrear of justice be accumulated. Were a native to succeed such a man, perhaps the difference would be most sensibly perceived. If the successor were a man of honour and honesty, he  
would



would new model his Court. He would assign to each the equitable advantages of his situation, well knowing that competence is the parent of independence, and that it is economy in the public to pay well for honest service. If he were a man of assiduity and talent, he would seek as speedily as justice would permit to purge his Court of the arrear it had incurred. For such a purpose he would repress frothy declamation, and even *eloquent* effusion, if unconnected with the cause. He would, when vacancies happened in the other Courts of Justice, avail himself of his *political* power, to recommend integrity and talent. Perhaps he would have ambition to imitate—perhaps he would succeed in imitating the learned Sir Thomas More, who, when Chancellor, called in vain for the next cause, when all had been tried, and he would take for his guide the maxim of Cæsar,

*Nil actum reputans, si quid superesset agendum.*  
His responsibility not being of a fugacious nature, he would never forget that his character, like his residence, was bound to the country, and if removed in the whirlwind of political agitation, he would retire amid the applauses of his fellow-citizens, serenely awaiting that moment when posterity should judge his actions, and his memory be recorded in the annals of his country, and when the scene should close  
for

for ever, he would be attended to an honourable grave by the thousands he had redressed, among whom would be seen "the widow, the fatherless, and he who had none to help him."

I have now done with SOMERS for ever. His principles and his motives are before the public. If they are pure, no sophistry of mine can change their colour: if they are unsound, the public will not long hesitate to ascribe the cause, and if that cause be private pique and resentment, the pen of Junius could not inflict a wound so painful, as the writhings of a discontented spirit. The gnawings of such a mind might extort a tear of compassion from the most unrelenting enemy; for to use the expression of an eloquent writer, "the blushes of the heart are agony indeed."

**PROBUS**

March 11, 1794

**L. B. T.**

for ever, he would be attended to, and his  
honorable grave by the thousands he had  
redeemed, among whom would be seen

~~the same~~  
had none to help him, and none to  
I have now done with you, and I have

his friends, and his friends are before  
**BETTER** the public. If they are pure, no sophistry  
of name can change their color: if they are  
unfounded, the public will not long believe

to receive the cause, and if the cause be  
private, pure and righteous, the public  
cannot be deceived, and I have now done with you

**To Mr. DOUGLAS.**

The language of such a mind and heart  
a heart of compassion, and a mind of  
letting every man to his own opinion

*Hec sunt quae aeterni sunt in vobis memori.*

best are your friends

**T**HE singular serenity with which the  
dawn of your administration hath been  
ushered in, and the languid calm that now  
prevails in the political horizon of this  
country (which I attribute to an universal  
confidence in you) evince the partiality  
with which you are received, and the ex-  
pectations that are on all hands formed of  
your ministerial probity and official capa-  
city.

The good opinion and confidence of a  
nation are not easily attained by any man,  
but above all men, with most difficulty by  
a first Minister of the Crown, because the  
public



public hold him responsible not only for his own, but for all the executive measures of those who act with him, and because the unpopular management of the several establishments—the odium of the national burdens—the incapacity or error of office through all the departments—and the resistance of popular propositions, are ever charged upon the person who primarily directs the public councils of a nation.

To be a Minister with general approbation, and to conduct a Government upon principles of honourable conciliation of all parties, seem to me a felicity reserved for you, and a prodigy unseen in this country till the æra of your administration, and you have already given a signal manifestation of the superior effect of honesty, candour, and plain dealing in State affairs, over the crooked policy of low cunning “which maketh no account of virtue,” and the illusive prestiges of venality and intrigue.

I am not then in the slightest degree apprehensive for the political interests of this country, while you continue as you have begun, to unite the talent and patriotism of opposition with the weight and energy of Government—an union which has in a great degree postponed discussion in the hope of gratuitous concession and caused a kind of truce in politics, which I for a time shall observe with the silence of one who goes to

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rest

rest to wake again with new ardour and recreated energy.

But tho' I postpone important political discussions in deference to the example of others, in order that they may have more effect, if necessary at all, when aided by distinguished co-operation, there are many topics of subordinate, tho' of serious concernment, that in the mean time invite observation. You will avoid much embarrassment and difficulty in the discharge of your public duty by being on your guard against the arts by which your honourable predecessor was moulded to the purposes of others. With the appointment of First Minister he retained not the power of the office; and, tho' known not to be deficient in talents and address, he was artfully represented as the puppet of State-legerdemain, while another man professed to manage the show. He possessed the mildest temper—the most conciliating manners—the most unaffected deportment—the most amiable disposition; yet did he yield a great part of his power to the most intemperate, haughty, vain and vindictive man alive: upon occasion, however, he could be firm; and, indeed, he is a man to whom slander could not impute the want of firmness in any other sense than that of yielding with too much facility his own better judgment to the ill-digested crudities of him who usurped upon his power.

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The indiscretion of one, to whom he conceded too much power, had in two memorable instances (not to mention others of inferior moment) nearly thrown this country into a flame, the issue of which would have been extremely problematical; the two instances are the ill-timed *Grand-jury Resolutions*, which were in many instances procured, and some of them penned by *high authority*, and the violent and hazardous measures which were, it is said, proposed by the *same authority*, at the very alarming crisis when the moderate and judicious proclamation of the Council against the Armed Associations made its appearance. In these two instances the wisdom of your predecessor was conspicuous: as to the first, he saw that there was a sudden and irresistible change in human opinion, and that it was more consistent with the dignity of his government to concede franchise while it would be received as a *favor*, than to yield it when demanded as a *right*; as to the second, he knew that in times of extraordinary and anomalous mutation in politics, rashness was insanity, and one precipitate step might hazard the Constitution; he wisely, therefore, and happily for this country, rejected the advice, tho' the adviser, as is usual with him, persisted to the last with a pertinacity which some call *prudence*, but which I call the pervicacious obstinacy of inborn inveterate self-sufficiency.



I have mentioned your predecessor to shew you that even he, mild and complacent and courteous as he was, was occasionally constrained to assert his own importance. I have already apprised you of the necessity of being your own master; on you will fall the whole responsibility of public measures, therefore reserve to yourself the whole direction of them. This is the grand mystery of successful Government. The strutting vanity of pragmatical *omniscience* will assuredly exert its exclusive prerogative of power and of wisdom; like other braves, it will challenge where it will not fight, and bully where it is not chastised; it will plume itself upon the wisdom which it never showed—upon learning which it never knew—upon counsel which it never gave—upon popularity which it never had—upon influence which it never possessed; it will call its wicked measures strong—its weak measures wise—its corrupt measures politic; it will revile the talents of other men and expect you to take its word for its own—it will boast of its independence, and yet will expect other men more independent to be its slaves; it has been so used to *dominate*, that it will attempt it even with you, but when it finds you resolute it will change the bravura tone of braggard-swinging for the mild piano of humility and submission; for it is so fond of power that to attain it, it will become your slave if you

will not be the flaye of it. Next to being really the Minister yourself, there is nothing of more moment to the success and reputation of your government than the choice you make of the persons on whom to repose your confidence; and your administration will be weak and embarrassed, or efficient and popular, according as you govern or are governed, and according to the kind of men you associate in your counsels. You will soon find that the political wisdom of this country is not the *peculium* of a single man: on the contrary, a short review of past measures and events, and a very slight acquaintance with *the man*, will convince you that he who has the impudence to claim this presumptuous monopoly is perhaps the least entitled to it of all the statesmen in the country. Nor is my judgment in this instance formed on the principles of those who ask, where did he learn the science of Government, or the moral and social duties that constitute the elements of politics? Those silly casuists think that dissipation is inconsistent with reflection—idleness with knowledge—vanity with solid understanding—the levities and vices of fashion with the decorum and sedateness of wisdom, and the puerilities of unfledged youth with the discretion of sombre-visaged manhood.—Fools! Their philosophy of fitness or unfitness is out of date. These things are all compatible now-a-days; but my objection  
to

to this redoubted Statesman has another foundation: I grant he may have knowledge without study, wisdom without experience, and discretion without thought or temper. Let him have intuition and inspiration too, since the few friends he has will have it so, still *his measures* cannot be got over; they speak his incapacity with an hundred tongues, or the public sense of it is shewn in the more eloquent silence of mute abhorrence. You will ask, what were those measures?—every one for the last ten years that discontented the nation or embarrassed the government—every one that strained without strengthening the prerogative, and that irritated the people without improving their condition.

In your present station, Sir, you are not less called upon to watch over the administration of justice, than to superintend and direct the government; the Minister who merely attends to the *latter* performs but half his duty to his Sovereign, and neglects the essential interest of the people. There are few political measures in which the public in a large sense take much concern. A Government moderately wise and temperately efficient will ever be respected, and perhaps popular; but in administrative justice men feel not only a community of concern, but a particularity of interest. Each individual looks to it as the grand title and

muni-



muniment of public right and private property.

The powerful noble, the chartered citizen, the ingenious artist, the lease-hold peasant, the day-hired labourer, the orphan and the widow, the starving mendicant, the aggregate of society itself, have, after all, no other tenure of life, of wealth, of honour, but the able and impartial administration of public justice. In filling the judicial vacancies that may take place in your administration, judge with your own eye, and contemplate not the *interest* of the man, but the *qualities* he possesses. Let not justice be so blasphemed as that any man can say *he can make a Judge*, or presume to make an offer of the appointment before his Majesty can be apprized that there is a vacancy; *put it out of fashion for men to promise* judicial promotion; let it be understood that you will listen to no recommendation but that of talents and integrity, and that you reserve judicial honor as the prize of pre-eminent virtue and wisdom——*datur pulcherimo*.

I will take the opportunity here of mentioning a departed character, for whose venerable memory there will ever remain in this country an universal sentiment of sincere respect. I can neither flatter nor offend the dead, when I mention, Lord Lifford. I mention justice and equity personified.

For

For near thirty years that he held the seals, he never had an enemy, nor ever lost a friend, *because he had a conscience void of offence, and lived in charity with all men.* He was the peculiar favourite of the profession that practised in his court, because it was impossible to know who amongst them were his favourites; he had no personal dislikes, and he knew that a Judge should not feel the influence of *friendship* or *enmity* in his magisterial capacity; attentive and enduring even to the lassitude of patience; he never *turned with averted eye* from any man, but with mild and benignant aspect countenanced the able, and encouraged the modest advocate. He possessed the cautious diffidence of talents, and the grave solemnity of justice. With more knowledge than most men, he was not above being instructed by any man, and he had such a regard for the *fixed* and *settled* principles of the science of jurisprudence, that he considered *deviation to be error, and innovation injustice.* He was courteous to one profession without *partiality*, and made the other respectable without *persecution.* His slowness was deliberation—his deliberation wisdom; and he held a middle course between the slippancy of precipitate judgment, and the dilatoriness of protracted decision, save when the infirmity of exhausted nature occasioned reluctant procrastination. Conscious of the imperfection of human intellect, he  
courted

courted the revision of his opinions, and free from the vanity of fastidious infallibility, he could admit error in himself, and assent to the reversal of his own decrees. He had honour without insolence—dignity without ostentation—pride without arrogance; in a word, possessing every good quality that could adorn the administration of justice. He was entirely devoid of every bad one, and he exhibited to this country a luminous example of an able, upright, and respected Judge.

I have now addressed you, for the third time, upon the concerns of the country you have been chosen to govern; time and observation will enable you fully to develop the several topics which I have but faintly alluded to, or mysteriously revealed. I am sensible that the subject on which I write, though important to the public, are hazardous to the writer. In being the advocate of my country, I am not disposed to be the victim of her enemies—I could have used a plainer and more detailed discussion. If I have said *too little* upon some facts, it is through apprehension of saying *too much*. General terms are the only modes I could use; the present are not times for free and full discussion. Licentiousness has of late assumed the garb of liberty in so many instances that I do not wonder at the temporary prejudice against political enquiry; but,



but, I trust, the prejudice is *but temporary*,  
and that, under the auspices of your ad-  
ministration, the temperate freedom of the  
Press will be preserved, and the People  
enjoy the *rara temporum felicitate, ubi sentire*  
*quæ velis, et quæ sentias dicere liceat.*

SOMERS.

March 13, 1794.

L-B-T.

## LETTER I.

TO THE

RT. HON. SYLVESTER DOUGLAS.

SIR,

IF your public character in another country was unknown here, the applause of SOMERS would have excited my attention to enquire who is this man that is come among us, and what are his purposes? it might have raised fears in you. With the diffidence of the ancient Roman, you would, perhaps, have returned to your friends and said, what ill have I done that this man should praise me? But the integrity of your character is fortunately too well established to become suspected even from the approbation of SOMERS.

I was bred to the profession of the Law. Tho' old and experienced in the world. understand little of politics in general, still less of the new doctrines of the day. PRORS  
has

has entered the lists on that ground, and I shall ~~confine myself to some observations~~ on the Third Letter of SOMERS, respecting the administration of justice, which he observes you are not less called upon to watch over than to superintend and direct the Government.

I cannot pass by unnoticed one maxim of Government which SOMERS lays down:---  
 " Reserve to yourself the whole direction of public measures; this is *the grand mystery of successful government.*" That is, you are a stranger to the country, unacquainted with its peculiar situation, its wants, or the circumstances which have advanced its prosperity. If there be a high judicial character of eminent talents, of vigorous, investigating mind, of firm and independent spirit and unimpeached integrity, who will therefore be most likely to deliver his own opinion, uninfluenced by party, he is not to be trusted. If there be an Officer of the Crown who has, in public prosecutions upon a juncture the most momentous that ever this country knew, and which required a mixture of firmness in the public cause, together with lenity to the deluded instruments of the secret mischief of others, tempered the rigour of justice with that mercy becoming a man who feels for human frailty, and with the liberality of a gentleman--if that Officer be distinguished for ability, for profound knowledge in your  
 common



common profession, possessing from his upright and unbiassed conduct above party measures, the confidence of opposition as well as of administration, intimately acquainted also with the peculiar state of this country from the part he bore in those prosecutions as Attorney General, do not listen to his advice or information. He is an Irishman, and therefore not to be trusted. He is interested in the welfare of this country, and therefore ought to be suspected. "Reserve to yourself the whole direction of public measures; consider government as an art of mystery; to be successful in which, you must not suffer any person to interfere in your monopoly." This is the language of proud, independent, emancipated Ireland, in support of her national character: is there no exception? Yet—"your success depends upon the choice of the person on whom you place your confidence." He leaves it to your sagacity to discover that this person is Somers.

That a man may be the bitterest enemy of his friends, is an observation which, tho' apparently contradictory, was not left for Somers to verify. Let me ask you, Somers, do you mean not only to wound the feelings of the living, by your injudicious and indelicate allegations, but also to disturb the ashes of the dead? You have insulted the memory of Lord Bifford by the ill-judged applause of your fatal friendship, and exposed

his infirmities by your panegyric. You have the peculiar infelicity to denude the character you approve, and to exalt the character you condemn. The wrath of honor becomes a serpent in your hands.

I respect the venerable name of Lord Lifford; he was a good lawyer and an honest man; he would have made an excellent Judge in any other Court, but he was not qualified for the active office he held. Not justice nor equity, but the miseries of the law's delay, were personified in him. How many have been ruined in his Court by a decree in their favour? What multitudes have felt, year after year, until the better part of life was spent in the pursuit, "that sickness of the heart which arises from hope deferred."

I shall state a few facts with respect to the administration of justice in the time of the late Chancellor and his successor, which I challenge Somers or any man to disprove. When they are answered by facts and not by the frippery of verbiage, I shall proceed: "Deeds are males, words are females."

In the time of Lord Lifford, there existed a most deplorable source of oppression, the trade of Injunctions. It was reduced to a science by the wretched quibbling arts of needy and voracious practitioners. Those arts were encouraged by every aid of procrastination. Injunctions were raised upon the slightest grounds. An Injunction-bill met

met with peculiar favour in that Court. To keep an Injunction alive, the most frivolous exceptions to answers were continually allowed. The party had a double chance—first, upon his motion for an Injunction upon equity confessed, and if that failed, he had liberty to except. When an Injunction was raised, it was seldom dissolved under three years. The miserable defendant all that time bound in the Injunction net, until the blood-sucker had nearly drawn the last drop of life. When the glutted leech fell off, the Injunction was dissolved, and the party was at liberty to bring his cause to a hearing after his means had been exhausted. The enormity of this system grew to such a height, that an Act of Parliament was found necessary at length to check the evil. When a cause was set down to be heard, it stood in the paper at least two years; refreshing fees followed upon refreshers for eight Terms or more, before it could be brought on, and when brought on, the very hearing itself was an Injunction, if the party was judicious enough to chuse those gentlemen whom Cicero calls *non oratores sed operarios lingua celeri et exercitati*, whose only measure of speech is to talk until their wind is spent. Two hundred causes stood in the list at one time—300 motions and upwards—the miserable parties suffering all the pangs of suspense, and deploring their misfortune in  
not



not having given up one half of their substance, rather than contest their right to the other. Speedy justice is mercy, compared with such delay: the one is simple death, the other protracted torture, that the suffering wretch, as under the punishments of *Galgula*, *se mori sentiat*, may feel himself expiring by inches--a wire-drawn existence lingering under the anguish of disappointed hope.

Now mark the opposite side of the picture: Lord Fitzgibbon succeeded in Trinity Term; all the arrears of causes and of motions was heard and disposed of before the end of the next Michaelmas Term; no such thing as an arrear now exists.--Fruitless injunction-bills have vanished together with the whole ruinous system of procrastination. In Lord Lifford's time a notice of a motion upon equity confessed, operated as an injunction which the defendant could not by any means get rid of, for peremptories remained 18 months undischarged, and therefore if the plaintiff did not chuse to bring on his motion, his object being delay, he could not be compelled to move upon it, the motion remained in the list, nor had the defendant any remedy whatsoever: but now, if either party serves a notice, he must move upon it, otherwise it is discharged with all other peremptories once a week at least. If the plaintiff's motion upon equity confessed is refused, he cannot as formerly  
except

except in order to gain time; he must bring his cause to a hearing. Exceptions to answers in Lord Lifford's Court were another powerful instrument of delay to which the greatest encouragement was given. The usual practice was, when the answer came in, to turn the entire bill into exceptions; and if to the most frivolous of these the defendant failed to answer, the exception was allowed, and the defendant was obliged to answer over. Now the utmost discouragement is thrown upon exceptions for delay, and the council signs them at the peril of reprehension. When the second answer came in, the same process of delay was played off again;—first, the motion upon equity confessed, and then the exceptions; a certain suspension for 18 months if the party thought fit to take advantage of it, followed by an injunction for three years upon the slightest colourable ground. The litigious defendant also is driven from all his strong holds, and fair creditors speedily receive their demands. The poor man and the rich meet with equal favor, unless in one case, indeed, where it must be admitted there is something like partiality shown: If a poor man's cause appears to be attended with circumstances of oppression on the part of some wealthy, powerful knave, a priority is given until the oppressor is made to feel the rod of justice and to redress his wrong. Is there no debt of

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gratitude

gratitude due from the profession, as well as from the public, for these services?—from the public, for the preservation of the national character and credit in the prompt as well as upright administration of justice?—from the profession, in the encouragement given to suitors to pursue their rights, more than compensating in the succession of many causes, what had been formerly acquired by the duration of one.

But a severe charge is brought against Lord Fitzgibbon—he is the persecutor of a certain class of the profession; he will not suffer industrious knavery to thrive. A swarm of reptiles had sprung up from the stagnation of justice, which are now swept away by the clear current. In Lord Lifford's administration they had grown into strength and wealth and power. The dragnet of injunction bills filled their hoards with the spoils of oppression—they are the bread of the orphan moistened with the widow's tears. Lord Fitzgibbon is the scourge of corrupt solicitors. "But Lord Lifford never persecuted any man"—I believe it—"he never turned an averted eye from any man." What!—not turn an averted eye from the knavery, the corruption, the rapine, the merciless plunder of those greedy and insatiable harpies! I should stand in doubt whether SOMERS is not a satyrical Lord Lifford, in disguise, and a panegyrist of Lord Fitzgibbon, but for the malevolent mind against the latter, which cannot be

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concealed. "He never turned an averted eye from any man." I fear it is true; the character of his mind was inertness and imbecility; he was infirm of purpose; he had not strength and vigour to cleanse the Augean stable of the accumulated load of filth and corruption; he had not the eagle-eye to pursue and overtake fraud in her secret holds and lurking places. Hence that enormous increase of those vultures of the law, corrupt practitioners, who had brought a stain and an odium upon the name of a great and liberal profession. But they have now fled that court---their trade is no more. A cruel monopoly has blasted their hopes, for none but honest men are safe.---*Hinc illa lachryma.*

Another political crime appears in the calendar, respecting the administration of justice---the appointment of Judges. Lord Fitzgibbon has dared to recommend eminent talents, profound legal learning, and unfulfilled integrity, as worthy to fill that high office. He has succeeded in the recommendation of a Downes, a Chamberlaine, and a Smith. Talents and learning, therefore, have been seduced, by exciting the ambitious hope of attaining to, and, perhaps, monopolizing judicial honours in future as their reward. I will acquit Lord Lifford of having interfered in the appointment of three such men, during the long period in which he held the Seals.

An Irish Chancellor is not to be trusted in recommendations to the Bench. If an Englishman, indeed, should come over here, ignorant of the country, ignorant of the talents, of the habits, of the manner of the qualifications of the Bar, on him you may rely. Is he an Irishman who tells you so? I know not the author, but can you believe that any other cause than the gall of disappointed ambition, has disgorged from his sickly mind this calumny against his country? From whom is Government to receive information of the qualifications of the advocate for the Bench? Is it from his conduct in the Senate? Your station is not in the hall of the Four-courts; you cannot judge with your own eye: of his political abilities you may, no doubt, determine in the House of Commons; but will any friend of reform assert, that this is to be the standard of capability for the Judgment Seat?

SOMERS pathetically exclaims, *rara temporum felicitas ubi sentire qua velis et qua sentias dicere liceat*. Surely, SOMERS, you have arrived at the rare felicity of seeing that day. You enjoy your sensations and the expression of them; of the *sentire qua velis* you are in full possession, for no man will envy you your feelings; and as to the *qua sentias dicere liceat*—"the puerilities of unfledged youth" you may retain, and its turgid declamation in what you call "sombre visaged



visaged manhood" with all the "pervicacious obstinacy of in-born inveterate sufficiency.

SOMERS, the veil is too thin; there is nothing in your labours which bear the similitude of true regard for the public weal. Though the patriot passion were better counterfeited, the incongruous deformity would be only more conspicuous.— An ape is more ugly for being like a man. In your third letter a vapid flatulency seems to denote exhausted malice. I am inclined almost to acquit you of the *odia in longum jaciens quæ reconsideret autemque promeret*.— Perhaps the colouring in the former was given by another hand, and you had only the merit of the outline. The bitterness of wit remains without the salt. Your efforts are too feeble, believe me they are too feeble, SOMERS, to produce the end you wish. You have sown the *Serpent's tooth*, indeed, but it has not sprung up an *armed man*. "Rest, perturbed spirit, rest!"

MAYNARD.

March 25, 1794.

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TO

## P R O B U S.

Non tali auxilio nec defensoribus istis.

**A**FTER an interval of two months, in which you have exultingly enjoyed the triumph of having the last word, like the feeble pugilist, who thinks the last weak blow proclaims his victory, I am in doubt whether I shall gratify or offend your vanity by a renewal of the contest between us. You have flattered yourself, and persuaded *your friend*, no doubt, that my retreat was recreant relinquishment, and my silence conscious refutation; and now that I have returned to the stage of action without accounting for my long absence, which I do not mean to do, you will at once ascribe the delay of *my* reply to the merit of your *own* composition: be it so if it gratifies you. I am not studious of being accounted one of the quick-sighted intuitive prodigies of the age; but if your vanity will allow you  
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to believe the fact, I do assure you, *PROBUS*, that in all this time I have not been able to prevail on myself to give your production a second reading; and that I notice it all, is not from any ambition to have it said, *I have answered you*, but that you should not boast that you *have been unanswered*. There are some writers formidable from their eloquence, some from their wit, some from their powers of argument, and a few from all these qualities of mind united; but to be an advocate without ingenuity, a disputant without reasoning, and an apologist without a knowledge of facts, are imperfections, *PROBUS*, which, if your *defence* had been less presumptuous than it is, I should rather have attributed to the weakness of your cause than to you. It happens not unfrequently that an indiscreet defence confirms and establishes the attack it was intended to repel; but it requires no common degree of dulness and indiscretion, not only to corroborate the specific charges of your adversary, but to strengthen his general accusation by the adduction of new crimes; and the man, indeed, is much to be lamented who might have escaped for want of evidence, and is convicted by the injudicious babbling of the counsel he employs to defend him.

Let me ask you, *PROBUS*, did you consult *your patron* upon your performance? If you did not, you have the consolation to think, that you are not the first officious  
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lycophant who has betrayed his friend. If you did consult him, which I believe you did, I marvel much that his boasted quickness deceived him so; that he did not observe that your zeal was injury, and your advocacy crimination. While you were modestly sacrificing to his vanity, he did not see that his character was the victim of your idolatrous worship; and while he felt himself flattered by your fulsome praise, he did not observe that his cause was ruined by your pompous imbecility.

But though you have been so cruelly injurious to your *patron*, you have evinced a degree of judgment and discretion in regard to yourself, for which I must give you merit. I "have stalked into public notice," you say, under the shadow of political discussion; and therefore it is, I presume, that you have the good sense to let my political doctrines pass *sub, silentio*, and to confine yourself altogether to what you deem the vindication of your friend from personal invective. And yet, *Probus*, one would have thought that the theme which, as you are pleased to say, has acquired me "public notice," would have deserved your "notice," particularly as you proposed the enquiry whether my letters "convey information or instruction;" and in the last paragraph of your first epistle, you assume to "have demonstrated the nature and the consequences of the principles of SOMERS;" and modestly enough you conclude with saying,



saying, you have *not* "ill instructed" the public in respect to them; though, in truth, you have not condescended to speak of his principles through the whole of your ardent composition.

But to give you all your merit, I must admit, that though you have failed to DEMONSTRATE THE PRINCIPLES OF SOMERS, you have introduced a little political sally of your own, which does you honour, and shews that you possess an amiable versatility of public principle, to be at once the advocate of the people's *enemy*, and the vindicator of the people's *privileges*.

You are suddenly enflamed with the enthusiasm of patriotic love, for a country which, perhaps, whatever else she may have given you, has not given you birth, and whatever you may have taken from her, you cannot set off against the account either gratitude or retribution of good offices.—Depend upon it, the people will never be persuaded that there is sincerity in your anonymous patriotism, while they behold you daily contributing the servile aid of of your puny influence, to resist every measure by which their condition is likely to be improved; and, indeed, it is a singular kind of modesty peculiar to you, that you conceal yourself when you profess to be the advocate of the people, and yet appear in *propria persona* to oppose their interests or abridge their privileges. Believe me, PROBUS, however willing you may be  
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to play the part, you are but a sorry impostor, and after all the rehearsals you have attended, you are a poor actor in the stage-tricks of politics; like the clown who imitates the professed tumbler, you have, in this instance, as *your patron* has often done before you, exhibited to the public a very clumsy somerset for popularity.—That “the voice of the people is to be heard in Parliament through the medium of petition” is a position not only not denied (as you would insinuate) but by direct and manifest implication asserted in the letter and nearly in the very paragraph which you have selected for animadversion, and therefore when you falsely charge me with the “monstrous conclusion” that “whenever Parliament shall have unanimously determined on a ruinous measure, the people, by petition, or the individual, by his pen, shall not point out its mischievous consequences.” You ought to recollect that the meer blockhead and mechanical scribbler has no privilege to transgress the bounds of candour and of truth, though the ingenious writer may sometimes be indulged in the venial licence of fallacious inference.—“I have stated that the people speak by the voice of the Parliament,” that is, in other words, that the Parliament is presumed to speak the sense of the people. I am not possessed of language more precise and constitutional in which I can affirm the right of the people to communicate with their



their representatives, "by petition," and with regard to the right of "the individual" to point out, by his pen, the mischievous "consequences of public measures," I think in these letters I have added to opinion the illustration of example.

But there is something which gives you great offence in my declaration—that I abandon the War-question for the present, because of the zealous and unanimous determination of the Parliament to support it, this position you say amounts to this, "that whenever Parliament has determined on a ruinous measure, the people are to be silent." Now, *Probus*, this conclusion, tho' falsely applied to my doctrine, is truly applied to your practice; and if we do not see "ruinous measures" and the people obliged "to be silent" we are indebted to you or *your patron* for the infinite goodness of our rulers. But this "monstrous conclusion" "destructive of the Constitution" with which you charge me, is false in logic as it is untrue in fact. For though I may consider the unanimous opinion of the Parliament relative to the question of Peace or War to be the most authoritative and decisive declaration of the public sentiment upon that question, I do not thereby deny the right and privilege of the people to petition or remonstrate upon that or any other occasion; and the fullest extent of my so very unconstitutional doctrine is this, that the presumptuous contravention of individual



dual opinion ought, upon the present War question, to give way to the collective wisdom of the whole nation expressed in the decision of Parliament, and if you can infer from this language a negation of the right of the subject "*to petition*," or an opinion that the people should "*be silent*" when they think fit to remonstrate, I must tell you, in the elegant language of your clerical friend, that the inference is "*rank nonsense*."

Badly as you have wielded your political pen in this little political warfare, you have been still less successful in the management of the justification and defence which have been committed to you; and while you affect to "*chastise me for individual attack*" you shew no example of aversion from personal calumny. By what authority do you alledge that "*some particular disappointment has dropped corrosive on my heart*." Oh! your patron instructed you so; he told you, "*there is but one man can presume to write those letters*"--- "*insinuate to the public it is all spite*," "*unius ob tram*---" and then be the charges "*never so true the public will give no credit to them when the motive is revenge*." Gracious God! are the frail records of human memory of that delible impression that this man can for a moment imagine there is but one person in the social circle of a populous nation whom he has superlatively injured! Does he think that all his minor acts of insult and oppression  
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are merged in this last *chef-d'œuvre* of individual persecution? Does he flatter himself that his conduct for ten or fifteen years past has procured him but *one* enemy? or can he be ignorant that it has not left him *one* friend? Does he delude himself with the hope that the injured and the injurer are equally obliviscient of the act of injury? Or does he forget that power is no inheritance, and that there is not any period of limitation but the grave against the resentment of insulted honour. Did it never occur to you or to him, that it required no motive of personal enmity to write these letters, but that to endeavour to remove the tissued vesture of imposition with which bad men seek to conceal their crimes, is one great means of promoting the public good?

Is he still uninformed that there does not exist a more ample, pregnant, and prominent character for public contempt and private execration? Has he never *broken his sword* or exposed his weakness, or displayed his jealous tyranny, but in the instance of the "particular disappointment" to which you allude? Is the gentleman at whom you have so delicately pointed, the only man alive to assail his ears with the murmur of complaint? Is there no injured talent or oppressed virtue in the country but what that gentleman is supposed to possess? Is it because your friend may want the generosity to make amends where he has done a wrong, that that gentleman should want  
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the magnanimity to forgive where he has been cruelly injured? Then, *Probat*, your insinuation comes to this: if it be unfounded you are guilty of the "*assassination*" you charge upon me, and *your patron* is an accessary before the fact; but, admitting the fact to be even as you assume it, let *your friend* ask his conscience whether his conduct to the person alluded to would not justify at his hands the severest chastisement the bitterest invective could inflict.

The only fact upon which you have given me a direct issue in your first letter (and this answer is entirely confined to that letter) is upon the number of Law-Peers in the Upper Houses of Parliament in England and Ireland, and their learning and ability with relation to other Constituent Members of those Houses respectively. I have asserted "that there are a number of Law-Peers in England of the first ability," and "that the Law-Peers of Ireland do not constitute the most distinguished part of the House for learning and ability." You say "that the number of Law-Peers in both Houses is nearly equal, and that those of Ireland do constitute the most distinguished part of the House for learning and ability." Now, tho' it may be true that the numbers reckoning heads, "*are nearly equal*," it does not therefore follow that there are as many here as in England "*of the first ability*," or that there are not few here and many there; and with regard to  
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the second point, it will require more than your pedantry, or the most insolent assertion *your friend's* self-sufficient ignorance has ever made to persuade the public that "the Law-Peers of Ireland do constitute the most distinguished part of the House for learning and ability," while a single Prelate, on the Episcopal Bench (not to mention any of the Lay-Peers) is a living evidence of your refutation.

Your next effort of ingenuity is the conversion of obvious compliment into instructive slander, and of honest eulogy into malicious satire. Until this passage, PROBUS, I considered you a deluded dupe; but here you have displayed a malignant mind: you admit you have seen the second publication of my second letter; you must therefore have seen that there was a deliberate omission of the only expression in the first publication of it, which the insidious criticism of mischievous sagacity could torture into unkindness, with regard to an elevated character whom I have praised from respect and admiration—but you from policy and meanness. But it seems it is to avail me nothing that I recalled the expression, to avoid the equivocal construction that such illiberal pedagogues as you might be inclined to give it. You insist upon keeping me to the *first reading*. Sedulous pains-taking pedant!—you have discovered it to be "the slander of a vulgar mind;" possessing at once the politeness of the Court and the erudition of the schools, I presume you take it to be the  
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privilege of learning and manners to denigrate every man not politically corrupt, and scholastically prudish in the degree that you are "a man of a vulgar mind," just as the ancient conquerors of the world considered every people but themselves *barbarians*.

But can the expression be justified? And if it can, then consider whether my letter or your composition be the "Hander of a vulgar mind." What then do I mean by domestic disappointments? It is, in my opinion, a great and afflicting "domestic disappointment," when unrivalled talent and exemplary integrity call for the perpetuation of a distinguished character, amidst the brightest records of human pre-eminence, that the public labours of a splendid career should not be retributed with permanent distinction and hereditary ennoblement, and that the great, and good, and venerable Judge should never see his name enrolled in the Peerage of his ungrateful country, or have any other honours to transmit to his posterity but the nobility of his virtue and reputation; and I confess too, I incline to think that that excellent person's "hours of retirement" must be sometimes "untranquillized" when he reflects that the honorary dignities of elevated rank are more frequently the reward of successful profligacy than of eminent virtue or exalted wisdom.

G DE 58 SOMERS.

June 21, 1794.

FINIS.